



County of Los Angeles  
**CHIEF EXECUTIVE OFFICE**

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA  
Chief Executive Officer

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

February 8, 2011

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February 8, 2011

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

Board of Supervisors  
GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

Dear Supervisors:

**DEPARTMENT OF PUBLIC WORKS: HARBOR-UCLA MEDICAL CENTER  
SURGERY/EMERGENCY REPLACEMENT PROJECT  
AWARD SUPPLEMENTAL AGREEMENT  
SPECS. 5110; CAPITAL PROJECT 69220  
(SECOND DISTRICT) (3 VOTES)**

**SUBJECT**

Award of Supplemental Agreement 22 to Contract IS-10966 with Leo A. Daly/HKS for services to the Harbor-UCLA Medical Center Surgery/Emergency Replacement Project.

**IT IS RECOMMENDED THAT YOUR BOARD:**

Award and authorize the Director of Public Works to execute Supplemental Agreement 22 to Contract IS-10966 with Leo A. Daly/HKS to reallocate \$500,000 of existing fees within the contract to pay for services pertaining to the preparation of the Harbor-UCLA Medical Center Surgery/Emergency Replacement Project design-build scoping documents and construction administration support services for the project's make-ready phase, and reduce the total contract fee by \$2,460,813, from \$11,486,592 to a \$9,025,779 not-to-exceed fee.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Approval of the recommended action will authorize a revision of existing contract fees in Contract IS-10966 with Leo A. Daly/HKS (LAD). This fee reduction and reallocation is

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in response to contract disputes between LAD and the County regarding work performed by LAD in developing design-build scoping documents and providing contract administration services for the make-ready work for the Harbor-UCLA Medical Center Surgery/Emergency Replacement Project (S/E Replacement Project).

### **Background**

On February 6, 2007, your Board approved Supplemental Agreement 21 authorizing LAD to prepare design-build scoping documents and to provide construction administration support services for a \$6,059,000 not-to-exceed fee for the S/E Replacement Project, increasing the total contract fee to \$11,486,592. During the preparation of the scoping documents, LAD had difficulty meeting the schedule in the contract. Later they alleged that they and their subconsultants had been required to perform significantly more work to develop the design-build scoping documents than could have been reasonably anticipated during negotiation of the supplemental agreement, and that they should be compensated an additional amount of approximately \$2 million for the services considered to be beyond the scope of the contract. In addition, LAD requested extra fees for construction administration services for the make-ready portion of the project that was under construction concurrent with the development of the scoping documents. The anticipated duration of make-ready construction, approximately 12 months, more than doubled and resulted in an increase in the time period required for construction administration support by LAD, for which LAD requested an additional \$1 million in fees.

The Department of Public Works (Public Works) reviewed LAD's request for additional compensation, and initiated a series of meetings and exchanged correspondence with LAD to attempt to understand the basis of LAD's request and to confirm the extent to which additional compensation might be justified. After a lengthy period of dialog and exchange of information, Public Works concluded that while LAD and their subconsultants did expend more effort than they anticipated in preparing the scoping documents, this resulted primarily from LAD managing the development of the documents, and was not the responsibility of the County. Likewise, after a detailed review of LAD's request for additional fees for their construction administration services, Public Works rejected this request, concluding that this extended staffing duration was primarily due to errors and omissions in LAD's construction documents, and that their staff had to spend additional time to resolve the errors.

After nearly 2 years of intensive review and negotiations, LAD agreed to reduce their fee request substantially based on the concerns raised by the County. LAD was able to substantiate portions of their request for payment for additional services related to both the scoping document preparation and the construction administration services. LAD's

requests for extra fees totaling nearly \$3 million have been reduced to \$500,000; including \$75,000 for additional construction administration services and \$425,000 for additional services performed in development of the scoping documents. As part of this negotiation, LAD agreed to accept this amount as a full and final resolution of the matter, and to waive any potential claims that they or their subconsultants may have had against the County.

As part of this supplemental agreement, County and LAD agree to waive all claims against each other related to the bridging documents and make-ready work; provided, however, the County reserves the right to pursue: 1) any claim based on, or alleging, latent defects, latent errors, or latent omissions in LAD's work product for the project (including the scoping documents), including, but not limited to, claims alleging professional negligence by LAD resulting in latent defects, latent errors, or latent omissions; and 2) any claim for indemnity arising out of any third party claims against the County for personal injury or property damage.

The original amount of Supplemental Agreement 21 was \$6,059,000. To date, \$2,898,186 has been expended, leaving a balance of \$3,160,814. The proposed supplemental agreement reallocates \$75,000 of the remaining balance to the make-ready and central plant phase, and reallocates \$425,000 to the bridging documents phase. The proposed supplemental agreement also reduces LAD's total contract fee amount by \$2,460,813, which also reduces the total contract fee from \$11,486,592 to \$9,025,779, resulting in a remaining contract balance of \$200,000.

LAD is not presently performing any additional work in support of the ongoing construction of the S/E Replacement Project. The construction administration services for the S/E Replacement Project that had been originally included in their scope of work has not been authorized and has instead been contracted for the project's construction management consultant, gkkworks.

Subsequent to this reallocation, the balance of \$200,000 will be reallocated to the optional services portion of the contract. Should the need arise for any services beyond that amount from LAD in the future, we would return to your Board to request approval of an additional supplemental agreement.

#### **Implementation of Strategic Plan Goals**

The recommended action meets the Board-approved Countywide Strategic Plan Goals of maximizing Operational Effectiveness (Goal 1) as the project is an investment in public infrastructure.

### **FISCAL IMPACT/FINANCING**

This action does not impact the Project Budget approved by your Board on September 8, 2009, (Attachment), as it represents a reduction of existing contract fees.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Supplemental Agreement 22 has been approved as to form by County Counsel. As part of Supplemental Agreement 22, the County and LAD each indemnify the other from third party claims related to the payment dispute and make-ready errors and omissions dispute made by any of their respective consultants; however, claims made by any other third parties are not included in this agreement .

As required by your Board, the existing contract includes the standard terms requiring compliance with Los Angeles County Code Chapter 2.200 (Child Support Compliance Program), Chapter 2.203 (Contractor Employee Jury Service Program), and Board Policy 5.135 (Safely Surrendered Baby Law). LAD is in compliance with these contract provisions.

### **ENVIRONMENTAL DOCUMENTATION**

On April 11, 2006, your Board adopted the Mitigated Negative Declaration (MND) for the S/E Replacement Project and an Addendum to the MND on April 13, 2010. The recommended action is within the scope of the project considered by the MND and the Addendum to the MND and will have no impact on the environment.

### **CONTRACTING PROCESS**

On August 23, 1993, Internal Services Department executed Contract IS-10966 with LAD. In 1996, the project was suspended due to a lack of funding. On October 3, 2000, your Board restarted the project and authorized Supplemental Agreement 3 for \$1,078,000. Subsequently, 18 additional supplemental agreements to this contract totaling \$10,408,592 were executed, increasing the contract value to \$11,486,592 under Capital Project 69220. Approval of this recommendation will reduce the total value of Contract IS-10966 to LAD to \$9,025,779.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approving the recommended action will have no impact on current County services or other projects.

**CONCLUSION**

Please return one adopted copy of this letter to the Chief Executive Office, Capital Projects Division; Health Services; and Public Works, Project Management Division I.

Respectfully submitted,



WILLIAM T FUJIOKA  
Chief Executive Officer

WTF:RLR  
DJT:SW:zu

Attachment

c: Executive Office, Board of Supervisors  
County Counsel  
Health Services  
Public Works

February 8, 2011

**ATTACHMENT**

**DEPARTMENT OF PUBLIC WORKS: HARBOR-UCLA MEDICAL CENTER  
SURGERY/EMERGENCY REPLACEMENT PROJECT  
AWARD SUPPLEMENTAL AGREEMENT  
SPECS. 5110; CAPITAL PROJECT 69220**

**I. PROJECT SCHEDULE**

<b>Project Activity</b>	<b>Board-Approved Schedule Completion Date</b>	<b>Proposed Schedule Completion Date</b>
Environmental Documents Amendment to MND	04/11/06* N/A**	04/11/06* 03/30/10*
<u>Make-Ready</u>		
Jurisdictional Approvals	06/12/06*	06/12/06*
Construction Award	10/18/06*	10/18/06*
Construction Start	10/19/06*	10/19/06*
Substantial Completion	03/31/10	05/31/10*
<u>Surgery/Emergency Building</u>		
Contract Award	09/08/09*	09/08/09*
Jurisdictional Approvals	12/26/11	12/26/11
Construction Start	11/24/09*	11/24/09*
Substantial Completion	07/24/13	07/24/13
Parking Structure		
Jurisdictional Approvals	04/26/10*	04/26/10*
Parking Structure		
Construction Start	04/26/10*	04/26/10*
Parking Structure		
Substantial Completion	12/24/10	01/15/11*
<u>Backfill</u>		
Jurisdictional Approvals	TBD	TBD
Construction Award	TBD	TBD
Construction Start	TBD	TBD
Substantial Completion	TBD	TBD

\* Indicates actual date.

## II. PROJECT BUDGET SUMMARY

Project Activity	Approved Project Budget
Land Acquisition	\$ 0
Construction	
Low Bid Construction Contract	2,321,654
Design-Build Contract	
S/E Building & Site	161,140,000
Option for Parking Structure	9,717,000
Job Order Contract	16,852,000
Purchase Order Contract	3,500,000
Southern California Edison Contract	285,000
Change Orders Total	18,320,346
Departmental Crafts	0
Youth Employment	0
Construction Consultants	0
Misc. Expense	
Design-Build Stipends	250,000
SidePlate License	107,000
Builder's Risk Insurance	2,000,000
Other	93,000
Telecomm Equip – Affixed to Building	2,100,000
Medical Equipment	32,762,000
Project Contingency	5,634,000
Civic Arts	0
Subtotal	\$255,082,000
Programming/Development	\$ 0
Plans and Specs	\$ 9,553,650
Consultant Services	
Site Planning	\$ 0
Hazardous Materials	490,000
Geotech/Soils Report and Soils Testing	1,006,000
Material Testing	3,960,000
Cost Estimating (gkkworks)	560,845
Topographic Surveys	190,000
Construction Management (gkkworks)	20,139,834
Peer Review (gkkworks)	1,801,074
Design Management (gkkworks)	1,012,981
Environmental	600,000
Move Management	267,000
Equipment Planning	975,000
Legal	1,971,000
Construction/Change Order	0
Other: Document Management	2,637,000
Other: Commissioning	823,266
Subtotal	\$ 36,434,000

## II. PROJECT BUDGET SUMMARY

Project Activity	Approved Project Budget
Miscellaneous Expenditures	\$ 262,000
Jurisdictional Review/Plan Check/Permit	\$ 3,970,000
County Services	
Code Compliance Inspection	\$ 3,305,175
Quality Control Inspection	2,857,525
Design Review	150,000
Design Services	100,000
Contract Administration	554,015
Project Management	7,169,958
Project Management Support Services	509,000
ISD Job Order Contract Management	402,000
DPW Job Order Contract Management	673,000
ISD ITS Communications	500,000
Project Security	0
Project Technical Support	581,268
Office of Affirmative Action	346,409
County Counsel	0
Regional Planning	15,000
Other: DPW Materials & Testing	10,000
Other: DPW Land Development	50,000
Other: DPW Traffic & Lighting	45,000
Other: DPW Design Division	10,000
Other: DPW Construction Division	10,000
Other: DPW Flood Maintenance Division	10,000
Subtotal	\$ 17,298,350
<b>TOTAL</b>	<b>\$ 322,600,000</b>